

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

DAVID LEE ALLEN NEUHRING  
ADC # 120517

PLAINTIFF

V.

5:06CV00094 JLH/HDY

LARRY NORRIS, Director, Arkansas Department of Correction;  
GALAND LAY, Warden, Cummins Unit; and  
LARRY TEMPAL, Dairy Farm Supervisor, Cummins  
Unit, Arkansas Department of Correction

DEFENDANTS

**ORDER**

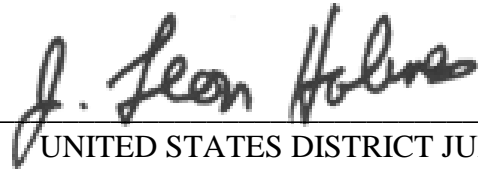
The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge H. David Young. No objections have been filed. After careful consideration, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects. IT IS THEREFORE ORDERED that:

1. This action is DISMISSED WITH PREJUDICE for failure to state a claim upon which relief may be granted;
2. Dismissal of this action constitutes a "strike" under 28 U.S.C. § 1915(g).<sup>1</sup>
3. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting these recommendations would not be taken in good faith.

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<sup>1</sup> Under § 1915(g), a prisoner may not proceed with a civil suit *in forma pauperis* if the prisoner has, "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). The Eighth Circuit has held that a dismissal pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994), constitutes a strike under § 1915(g). *Armentrout v. Tyra*, 175 F.3d 1023 (8<sup>th</sup> Cir. Feb. 9, 1999) (unpub. table op.) (citing *Rivera v. Allin*, 144 F.3d 719, 730-31 (11<sup>th</sup> Cir. 1998); *Patton v. Jefferson Correctional Ctr.*, 136 F.3d 458, 462-64 (5<sup>th</sup> Cir. 1998)).

DATED this 1st day of June, 2006.

A handwritten signature in black ink, reading "J. Leon Holmes". The signature is written in a cursive style with a large, stylized initial "J".

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UNITED STATES DISTRICT JUDGE